



U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2

May 17, 2019

BY ELECTRONIC MAIL

Robert Law, Ph.D.
de maximis, inc.
186 Center Street, Suite 290
Clinton, New Jersey 08809

Re: Re: Lower Passaic River Study Area – Administrative Settlement Agreement and Order
on Consent for Remedial Investigation/Feasibility Study (Agreement) CERCLA Docket
No. 02-2007-2009

Dear Dr. Law:

The U.S. Environmental Protection Agency (EPA) has reviewed the *Draft Common Engineering Elements Upper 9-Mile Source Control Interim Remedy Feasibility Study* (Common Elements) submitted by the Cooperating Parties Group (CPG) for the Lower Passaic River Study Area (LPRSA), dated May 6, 2019.

EPA is providing the enclosed comments on the CPG's *Draft Common Engineering Elements* with this letter in accordance with Section X, Paragraph 44(d) of the Agreement. Please proceed with revisions to the table within 30 days consistent with the enclosed comments. If there are any questions or clarifications needed, please contact me to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Salkie", is positioned below the word "Sincerely,".

Diane Salkie, Remedial Project Manager
Lower Passaic River Study Area RI/FS

Enclosure

Cc: Zizila, F. (EPA)
Sivak, M. (EPA)
Hyatt, B. (CPG)
Potter, W. (CPG)

EPA COMMENTS

Lower Passaic River Study Area Upper 9-Mile Source Control Interim Remedy Feasibility Study – Common Engineering Elements, Dated May 6, 2019

<u>No.</u>	<u>Location/ Page No.</u>	<u>EPA Comment</u>
1	General	The timing of actions is not discussed. Describe assumptions and estimates for when major activities, such as dredging, will start and end, and include such information in the common elements document and in the FS.
2	Page 1, Sediment Removal, second bullet	The assumption of mechanical dredging for purposes of the alternatives evaluation in the FS is appropriate if it is applied similarly for all alternatives. No revisions are necessary at this time. However, while mechanical dredging appears suitable for much of the upper 9 miles of the LPR, precision dredging is also anticipated for portions of the dredging effort and will need to be acknowledged in the FS and considered during the remedial design.
3	Page 1, Sediment Removal, third bullet	Access limitations will need to be considered for the areas of land-based dredging. If assumptions about access to these areas significantly impact cost or schedule, include discussion of them in the common elements document and in the FS.
4	Page 1, Dredge Material Management, third bullet	Pre-characterization of sediments during the PDI would be inappropriate for waste disposal requirements (i.e., hazardous vs. non-hazardous). A determination of waste characteristics must be made at the point of waste generation, during the dredge material management process, without any dilution, mixing, or alteration of the waste. Revise the common elements document accordingly, and ensure the FS is also prepared accordingly.
5	Page 2, Dredge Material Management, third bullet	The disposal of wastes in a Subtitle C vs. Subtitle D facility has potential to greatly influence the costs of alternatives. Explain the assumption that all dredged materials will be disposed at a Subtitle C facility or revise the assumption to incorporate some more appropriate allocation of material between Subtitle C and Subtitle D facilities in the common elements document and in the FS. Also, provide justification for the assertion that EPA has determined that sediments from the LPR do not contain RCRA-listed hazardous wastes.
6	Page 2, Mitigation Dredging Residuals, first bullet	Describe in the common elements document and in the FS the types of real-time construction performance monitoring data that are planned for collection.
7	Page 3, Mitigation of Dredging Residuals, second bullet	Describe in the common elements document and in the FS the anticipated thickness of the RMC that would be placed outside of the dredge and cap footprint, and the potential impacts to flood storage.

EPA COMMENTS

Lower Passaic River Study Area Upper 9-Mile Source Control Interim Remedy Feasibility Study – Common Engineering Elements, Dated May 6, 2019

<u>No.</u>	<u>Location/ Page No.</u>	<u>EPA Comment</u>
8	Page 3, Mitigation of Dredging Residuals, third bullet	Further describe the placement of the cap material (e.g., placement of full-thickness cap reach by reach, placement of first layer immediately after dredging followed by complete cap afterward, etc.) in the common elements document and in the FS.
9	Page 3, Capping, second bullet	Access limitations will need to be considered for the areas of land-based capping. If assumptions about access to these areas significantly impact cost or schedule, include discussion of them in the common elements document and in the FS.
10	Page 3, Capping, third bullet	Provide justification for the design life of the cap and confirm whether any armor stone will have the same design life in the common elements document and in the FS.
11	Page 3, Capping, third bullet	Provide capping assumptions for sensitive areas, such as sensitive habitat zones, and the percentage of area requiring armor stone in the common elements document and in the FS. Also indicate whether it is anticipated that armor stone would be filled in some manner with any other substrate to support ecological function.
12	Page 4, Monitoring, third bullet	This bullet appears to presume that post-interim remedy confirmatory sampling would not be conducted and that only a construction certification process would be followed. Include in the comment elements document a brief description of post-remedy confirmatory sediment sampling for purposes of verifying attainment of RAOs to be consistent with discussions between EPA, NJDEP and CPG (e.g., the conference call on May 14, 2019)
13	Page 4, Monitoring, fourth bullet	Note that O&M monitoring of the cap areas should be conducted as soon as practical after installation to define a baseline data set. No revisions are necessary at this time.
14	Page 4, Monitoring, fourth and fifth bullets	The assumption of a second ROD 10 years after IR construction is noted, and the overall remediation process for the LPRSA is the subject of ongoing discussion between EPA, NJDEP, and the CPG. No revisions are necessary at this time; however, the assumed 10-year interval may need to be revised for the FS based on the outcome of the ongoing discussions.
15	Page 4, Adaptive Management, second bullet	Note that triggers for assessment and action under adaptive management are the subject of ongoing discussions between EPA, NJDEP, and the CPG. No revisions are necessary at this time; however, the language in this bullet may need to be revised, or expanded, to present the outcome of the ongoing discussions.

EPA COMMENTS

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16	Page 4, Institutional Controls, first bullet	Contamination addressed by the IR may not satisfy complete risk mitigation. ICs will be necessary anywhere contaminant concentrations exceed risk-based remedial goals until such time as risks are completely mitigated. Conservative ICs (e.g., advisories for no fish consumption within the LPR) will likely be needed on an interim basis until remedial goals can be established and the necessary ICs more clearly understood. Revise the common elements document accordingly and be prepared to discuss this in the FS.